IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No.7173-M of 2007
Date of decision: February 5 , 2007.

Neeraj Kumar

...**Petitioner(s)**

v.

State of Punjab

...**Respondent(s)**

Present: S/Shri Amarpreet Singh & Bipan Sharma, Advocates,
for the petitioner.

Surya Kant, J. (Oral)

The prayer in this petition is to grant pre-arrest bail to the petitioner in FIR No.112 dated 22.3.2001, under sections 363, 366-A IPC, registered at Police Station Civil Lines, Amritsar.

Notice of motion.

Shri Amit Khanna, learned Assistant AG, Punjab, accepts notice.

As per the allegations contained in the FIR, the petitioner had allegedly kidnapped the daughter of the complainant.

The petitioner, on the other hand, has averred that he and the daughter of the complainant, namely, Sangita had developed liking for each other and against the wishes of their parents, they solemnized marriage in the month of February 2001 itself. It is averred that out of the aforementioned wedlock, the petitioner and his wife are blessed with two daughters, namely, Muskan and Anjali. Reliance has also been placed upon the affidavit dated 31.1.2007 (Annexure P5) purported to have been sworn by the wife of the petitioner, namely, Sangita. It is further averred that

pursuant to the above stated FIR, the parents of the petitioner, were charge-sheeted and faced the trial. However, the complainant himself did not support the prosecution case and consequently, his parents have already been acquitted.

The petitioner has further come up with a plea that since he, and his wife (Sangita), had left Amritsar and got settled at Lucknow, he did not come to know about the pendency of the above stated criminal case in which he has been declared a proclaimed offender.

Prima-facie, the stand taken by the petitioner that he got married to Sangita and they are living as husband and wife and have two children out of the said wedlock, appears to be factually correct. It also appears from the record that the complainant, namely, father of the petitioner's wife, having been apprised with the correct facts, did not support the false accusations made against the petitioner and/or his parents.

Though the petitioner, by absconding and/or evading his arrest, took the criminal justice system for a ride, however, in the peculiar facts and circumstances of the case, there appears to be no necessity of his custodial interrogation or judicial custody.

Consequently, this petition is disposed of with the following directions:-

(i) the petitioner may appear before the Investigating Officer to join the investigation and produce the relevant documents/material to show that he had actually married Sangita, daughter of the complainant, and both of them are living as husband and wife;

(ii) the petitioner, however, shall not be arrested and in any such eventuality, he will be released on bail subject to his furnishing requisite bail bonds to the satisfaction of the Investigating Officer;

(iii) the investigating agency shall be obligated to look into the petitioner's stand and thereafter submit a report to the court of competent jurisdiction, as may be required in law;

(iv) the petitioner, if so required, thereafter, may also surrender before the learned Additional Sessions Judge/trial court and

furnish requisite bail bonds to its satisfaction for his release on regular bail and in the event of furnishing bail bonds, he will be admitted to interim regular bail; and

(v) the learned trial court shall make every endeavour to conclude the trial as expeditiously as possible and preferably within six months.

February 5, 2007. [**Surya Kant**]
kadyan **Judge**